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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,215	02/12/2002	Brook W. Lang	BIOS 109	8756

7590

10/19/2004

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EXAMINER

MOSSER, ROBERT E

ART UNIT PAPER NUMBER

3714

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

SW

**Office Action Summary**

Application No.

10/075,215

Applicant(s)

LANG, BROOK W.

Examiner

Robert Mosser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on July 19th, 2004.  
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 9-12 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) 1-7 and 9-12 is/are allowed.  
 6) ☒ Claim(s) \_\_\_\_\_ is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**



**Responsive to amendment filed July 19<sup>th</sup>, 2004.**

**Claims 1-7 and 9-12 are pending.**

**This action is final.**



***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "the memory" on line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Sporgis (US 6,320,495).

Regarding claims 1-4. Sporgis teaches a multi-player game system using cellular telephones including a wireless communication network capable of transmitting digital information (Col 2:23-35), at least one wireless device capable of transmitting and receiving digital information from the said wireless communication network with a wireless telephone being assigned to each player (Col 2:1-35), a physical location means coupled to said wireless device used to determine the location of the player (Fig 1), a wide area computer network (Internet – Col 2:28-31) coupled to said wireless communication network to enable the physical location of said player to be uploaded from said wireless communication network, a central computer (Central computer – Col 3:33-34 ), and a location-based software game that uses location information from each said player to achieve the object of the game (Treasure hunt --Abstract). Further the game software is located in the memory of a central server and accessed via web browser on the player specific mobile devices (Website – Col 3:51-55).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5-7, and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sporgis (US 6,320,495) as applied to claims 1-4 above, and further in view of Kirkpatrick et al (6,459,989)

Regarding at least claims 5-7, Sporgis is silent regarding the incorporation of a laser tag type game. Kirkpatrick et al teaches the use of Laser Tag (a position based game in a wireless positioning tracking system incorporated over a wireless communication network coupled to a wide area computer network (Figure 2) and a central computer (24). Kirkpatrick et al further teaches the inclusion of the monitoring and recording of hits that have been transmitted by a transmitter (*Kirkpatrick et al* Col 8:10-41) in the Laser Tag system in addition to the tracking of the players by the player GPS antennas equivalently a database file for said player to record the location of said player as so claimed (*Kirkpatrick et al* Col 5:34-6:23). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the laser tag game and database of

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Kirkpatrick into the system of Sporgis in order to allow players to eliminate each other during the treasure hunt or alternatively utilize the base system of Sporgis to play alternate games.

Regarding claim 9, the client and server side software of Sporgis is understood as the client web browser and computer website software (Col 3:24-26 & 3:37-39).

Regarding claims 10-12, the game of Sporgis is a treasure hunt game with the target of finding the treasure resultant of the clues generated by the computer (Abstract).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-7, and 9-12 have been considered but are moot in view of the new ground(s) of rejection.

The newly presented art of Sporgis has been introduced to more clearly address newly amended features.

Previously presented remarks are believed to be addressed in the art as presently applied.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

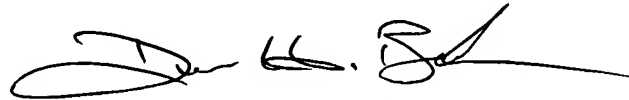
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (703)-305-4253. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

REM



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